

Senate File 342 - Enrolled

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SENATE FILE 342

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1 3 AN ACT
1 4 RELATING TO FINANCIAL AND REGULATORY MATTERS BY MAKING AND
1 5 INCREASING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING
1 6 JULY 1, 2004, MAKING CIVIL PENALTIES APPLICABLE AND
1 7 PROVIDING EFFECTIVE AND APPLICABILITY DATE PROVISIONS.
1 8
1 9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 10
1 11 DIVISION I
1 12 EDUCATION
1 13 Section 1. STATE BOARD OF REGENTS == GENERAL FUND ENDING
1 14 BALANCE.

1 15 1. Prior to the appropriation of the surplus existing in
1 16 the general fund of the state at the conclusion of the fiscal
1 17 year beginning July 1, 2004, pursuant to section 8.57,
1 18 subsection 1, from appropriations that remain unencumbered or
1 19 unobligated and would otherwise revert on August 31, 2005,
1 20 pursuant to section 8.33, up to \$2,800,000 shall be
1 21 transferred to the state board of regents.

1 22 2. The transfer made in subsection 1 shall be distributed
1 23 to the state board of regents in the fiscal year beginning
1 24 July 1, 2005, to be used as additional funding for the fiscal
1 25 year beginning July 1, 2005, for the institutions under the
1 26 state board of regents.

1 27 DIVISION II
1 28 HEALTH AND HUMAN SERVICES
1 29 DEPARTMENT OF HUMAN SERVICES

1 30 Sec. 2. 2004 Iowa Acts, chapter 1175, section 116,
1 31 unnumbered paragraph 2, is amended to read as follows:

1 32 For medical assistance reimbursement and associated costs
1 33 as specifically provided in the reimbursement methodologies in
1 34 effect on June 30, 2004, except as otherwise expressly
1 35 authorized by law, including reimbursement for abortion
2 1 services, which shall be available under the medical
2 2 assistance program only for those abortions which are
2 3 medically necessary:

2 4 \$352,794,101
2 5 422,794,101

2 6 Sec. 3. 2004 Iowa Acts, chapter 1175, section 118,
2 7 unnumbered paragraph 2, is amended to read as follows:

2 8 For medical contracts, including salaries, support,
2 9 maintenance, and miscellaneous purposes, and for not more than
2 10 the following full-time equivalent position:

2 11 \$ 9,725,035
2 12 10,725,035
2 13 FTEs 1.00

2 14 Of the amount appropriated in this section, \$1,000,000 is
2 15 allocated for implementation costs for the Iowa Medicaid
2 16 enterprise initiative.

2 17 Sec. 4. 2004 Iowa Acts, chapter 1175, section 130,
2 18 subsections 1 and 2, are amended to read as follows:

2 19 1. For the state resource center at Glenwood for salaries,
2 20 support, maintenance, and miscellaneous purposes:

2 21 \$ 8,550,280
2 22 9,550,280

2 23 2. For the state resource center at Woodward for salaries,
2 24 support, maintenance, and miscellaneous purposes:

2 25 \$ 4,520,459
2 26 5,520,459

2 27 Sec. 5. 2004 Iowa Acts, chapter 1175, section 131, is
2 28 amended to read as follows:

2 29 SEC. 131. MI/MR/DD STATE CASES. There is appropriated
2 30 from the general fund of the state to the department of human
2 31 services for the fiscal year beginning July 1, 2004, and
2 32 ending June 30, 2005, the following amount, or so much thereof
2 33 as is necessary, to be used for the purpose designated:

2 34 For purchase of local services for persons with mental
2 35 illness, mental retardation, and developmental disabilities
3 1 where the client has no established county of legal
3 2 settlement:

3 3 \$ 11,014,619
3 4 11,264,619

3 5 The general assembly encourages the department to continue

3 6 discussions with the Iowa state association of counties and
3 7 administrators of county central point of coordination offices
3 8 regarding proposals for moving state cases to county budgets.

3 9 Sec. 6. 2004 Iowa Acts, chapter 1175, section 134,
3 10 subsection 1, unnumbered paragraph 2, is amended to read as
3 11 follows:

3 12 For costs associated with the commitment and treatment of
3 13 sexually violent predators in the unit located at the state
3 14 mental health institute at Cherokee, including costs of legal
3 15 services and other associated costs, including salaries,
3 16 support, maintenance, and miscellaneous purposes:
3 17 \$ 2,833,646
3 18 3,608,646

3 19 Notwithstanding section 8.33, moneys appropriated in this
3 20 section that remain unencumbered or unobligated at the close
3 21 of the fiscal year shall not revert but shall remain available
3 22 for expenditure for the purposes designated until the close of
3 23 the succeeding fiscal year.

3 24 DIVISION III
3 25 JUSTICE SYSTEM

3 26 Sec. 7. INDIGENT DEFENSE CLAIMS == TRANSFERS. It is the
3 27 intent of the general assembly that the director of the
3 28 department of management, with the approval of the governor,
3 29 shall utilize the transfer authority available under section
3 30 8.39 to provide the office of the state public defender of the
3 31 department of inspections and appeals with sufficient funding
3 32 to satisfy all valid indigent defense claims under section
3 33 232.141 and chapter 815 for the fiscal year beginning July 1,
3 34 2004, and ending June 30, 2005.

3 35 DIVISION IV
4 1 EMPLOYMENT

4 2 Sec. 8. Section 22.7, Code 2005, is amended by adding the
4 3 following new subsection:

4 4 NEW SUBSECTION. 51. Confidential information, as defined
4 5 in section 86.45, subsection 1, filed with the workers'
4 6 compensation commissioner.

4 7 Sec. 9. Section 85.27, subsection 7, Code 2005, is amended
4 8 to read as follows:

4 9 7. If, after the third day of incapacity to work following
4 10 the date of sustaining a compensable injury which does not
4 11 result in permanent partial disability, or if, at any time
4 12 after sustaining a compensable injury which results in
4 13 permanent partial disability, an employee, who is not
4 14 receiving weekly benefits under section 85.33 or section
4 15 85.34, subsection 1, returns to work and is required to leave
4 16 work for one full day or less to receive services pursuant to
4 17 this section, the employee shall be paid an amount equivalent
4 18 to the wages lost at the employee's regular rate of pay for
4 19 the time the employee is required to leave work. For the
4 20 purposes of this subsection, "day of incapacity to work" means
4 21 eight hours of accumulated absence from work due to incapacity
4 22 to work or due to the receipt of services pursuant to this
4 23 section. The employer shall make the payments under this
4 24 subsection as wages to the employee after making such
4 25 deductions from the amount as legally required or customarily
4 26 made by the employer from wages. Payments made under this
4 27 subsection shall be required to be reimbursed pursuant to any
4 28 insurance policy covering workers' compensation. Payments
4 29 under this subsection shall not be construed to be payment of
4 30 weekly benefits.

4 31 Sec. 10. Section 85.35, Code 2005, is amended to read as
4 32 follows:

4 33 85.35 ~~SETTLEMENT IN CONTESTED CASE SETTLEMENTS.~~

4 34 1. The parties to a contested case or persons who are
4 35 involved in a dispute which could culminate in a contested
5 1 case may enter into a settlement of any claim arising under
5 2 this chapter or chapter 85A, 85B, or 86, providing for final
5 3 disposition of the claim, ~~provided that no final disposition~~
~~5 4 affecting rights to future benefits may be had when the only~~
~~5 5 dispute is the degree of disability resulting from an injury~~
~~5 6 for which an award for payments or agreement for settlement~~
~~5 7 under section 86.13 has been made.~~ The settlement shall be in
5 8 writing on forms prescribed by the workers' compensation
5 9 commissioner and submitted to the workers' compensation
5 10 commissioner for approval.

5 11 2. The parties may enter into an agreement for settlement
5 12 that establishes the employer's liability, fixes the nature
5 13 and extent of the employee's current right to accrued
5 14 benefits, and establishes the employee's right to statutory
5 15 benefits that accrue in the future.

5 16 3. The parties may enter into a compromise settlement of

5 17 the employee's claim to benefits as a full and final
5 18 disposition of the claim.

5 19 4. The parties may enter into a settlement that is a
5 20 combination of an agreement for settlement and a compromise
5 21 settlement that establishes the employer's liability for part
5 22 of a claim but makes a full and final disposition of other
5 23 parts of a claim.

5 24 5. A contingent settlement may be made and approved,
5 25 conditioned upon subsequent approval by a court or
5 26 governmental agency, or upon any other subsequent event that
5 27 is expected to occur within one year from the date of the
5 28 settlement. If the subsequent approval or event does not
5 29 occur, the contingent settlement and its approval may be
5 30 vacated by order of the workers' compensation commissioner
5 31 upon a petition for vacation filed by one of the parties or
5 32 upon agreement by all parties. If a contingent settlement is
5 33 vacated, the running of any period of limitation provided for
5 34 in section 85.26 is tolled from the date the settlement was
5 35 initially approved until the date that the settlement is
6 1 vacated, and the claim is restored to the status that the
6 2 claim held when the contingent settlement was initially
6 3 approved. The contingency on a settlement lapses and the
6 4 settlement becomes final and fully enforceable if an action to
6 5 vacate the contingent settlement or to extend the period of
6 6 time allowed for the subsequent approval or event to occur is
6 7 not initiated within one year from the date that the
6 8 contingent settlement was initially approved.

6 9 6. The parties may agree that settlement proceeds, which
6 10 are paid in a lump sum, are intended to compensate the injured
6 11 worker at a given monthly or weekly rate over the life
6 12 expectancy of the injured worker. If such an agreement is
6 13 reached, neither the weekly compensation rate which either has
6 14 been paid, or should have been paid, throughout the case, nor
6 15 the maximum statutory weekly rate applicable to the injury
6 16 shall apply. Instead, the rate set forth in the settlement
6 17 agreement shall be the rate for the case.

6 18 The settlement shall not be approved unless evidence of a
6 19 bona fide dispute exists concerning any of the following:

6 20 1. The claimed injury arose out of or in the course of the
6 21 employment.

6 22 2. The injured employee gave notice under section 85.23.

6 23 3. Whether or not the statutes of limitations as provided
6 24 in section 85.26 have run. When the issue involved is whether
6 25 or not the statute of limitations of section 85.26, subsection
6 26 2, has run, the final disposition shall pertain to the right
6 27 to weekly compensation unless otherwise provided for in
6 28 subsection 7 of this section.

6 29 4. The injury was caused by the employee's willful intent
6 30 to injure the employee's self or to willfully injure another.

6 31 5. Intoxication, which did not arise out of and in the
6 32 course of employment but which was due to the effects of
6 33 alcohol or another narcotic, depressant, stimulant,
6 34 hallucinogenic, or hypnotic drug not prescribed by an
6 35 authorized medical practitioner, was a substantial factor in
7 1 causing the employee's injury.

7 2 6. The injury was caused by the willful act of a third
7 3 party directed against the employee for reasons personal to
7 4 such employee.

7 5 7. This chapter or chapter 85A, 85B, 86 or 87 applies to
7 6 the party making the claim.

7 7 8. A substantial portion of the claimed disability is
7 8 related to physical or mental conditions other than those
7 9 caused by the injury.

7 10 7. A settlement shall be approved by the workers'
7 11 compensation commissioner if the parties show all of the
7 12 following:

7 13 a. Substantial evidence exists to support the terms of the
7 14 settlement.

7 15 b. Waiver of the employee's right to a hearing, decision,
7 16 and statutory benefits is made knowingly by the employee.

7 17 c. The settlement is a reasonable and informed compromise
7 18 of the competing interests of the parties.

7 19 If an employee is represented by legal counsel, it is
7 20 presumed that the required showing for approval of the
7 21 settlement has been made.

7 22 8. Approval of a settlement by the workers' compensation
7 23 commissioner shall be is binding on the parties and shall not
7 24 be construed as an original proceeding. Notwithstanding any
7 25 provisions of this chapter and chapters 85A, 85B, 86 and 87,
7 26 an approved compromise settlement shall constitute a final bar
7 27 to any further rights arising under this chapter and chapters

7 28 85A, 85B, 86, and 87. ~~Such regarding the subject matter of~~
7 29 ~~the compromise and a payment made pursuant to a compromise~~
7 30 ~~settlement agreement~~ shall not be construed as the payment of
7 31 weekly compensation.

7 32 Sec. 11. Section 85.38, subsection 2, unnumbered paragraph
7 33 2, Code 2005, is amended to read as follows:

7 34 If an employer denies liability under this chapter, chapter
7 35 85A, or chapter 85B, for payment for any medical services
8 1 received ~~or weekly compensation requested~~ by an employee with
8 2 ~~a disability~~, and the employee is a beneficiary under either
8 3 an individual or group plan for nonoccupational illness,
8 4 injury, or disability, the nonoccupational plan shall not deny
8 5 payment for the medical services received ~~or for benefits~~
8 6 ~~under the plan~~ on the basis that the employer's liability for
8 7 ~~the medical services~~ under this chapter, chapter 85A, or
8 8 chapter 85B is unresolved.

8 9 Sec. 12. Section 85.71, Code 2005, is amended by adding
8 10 the following new subsection:

8 11 NEW SUBSECTION. 5. The employer has a place of business
8 12 in Iowa, and the employee is working under a contract of hire
8 13 which provides that the employee's workers' compensation
8 14 claims be governed by Iowa law.

8 15 Sec. 13. Section 86.24, subsection 4, Code 2005, is
8 16 amended to read as follows:

8 17 4. A transcript of a contested case proceeding shall be
8 18 provided ~~to the workers' compensation commissioner~~ by an
8 19 appealing party at the party's cost ~~and an affidavit shall be~~
8 20 ~~filed by the appealing party or the party's attorney with the~~
8 21 ~~workers' compensation commissioner within ten days after the~~
8 22 ~~filing of the appeal to the workers' compensation commissioner~~
8 23 ~~stating that the transcript has been ordered and identifying~~
8 24 ~~the name and address of the reporter or reporting firm from~~
8 25 ~~which the transcript has been ordered.~~

8 26 Sec. 14. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

8 27 1. "Confidential information", for the purposes of this
8 28 section, means all information that is filed with the workers'
8 29 compensation commissioner as a result of an employee's injury
8 30 or death that would allow the identification of the employee
8 31 or the employee's dependents. Confidential information
8 32 includes first reports of injury and subsequent reports of
8 33 claim activity. Confidential information does not include
8 34 pleadings, motions, decisions, opinions, or applications for
8 35 settlement that are filed with the workers' compensation
9 1 commissioner.

9 2 2. The workers' compensation commissioner shall not
9 3 disclose confidential information except as follows:

9 4 a. Pursuant to the terms of a written waiver of
9 5 confidentiality executed by the employee or the dependents of
9 6 the employee whose information is filed with the workers'
9 7 compensation commissioner.

9 8 b. To another governmental agency, or to an advisory,
9 9 rating, or research organization, for the purpose of compiling
9 10 statistical data, evaluating the state's workers' compensation
9 11 system, or conducting scientific, medical, or public policy
9 12 research, where such disclosure will not allow the
9 13 identification of the employee or the employee's dependents.

9 14 c. To the employee or to the agent or attorney of the
9 15 employee whose information is filed with the workers'
9 16 compensation commissioner.

9 17 d. To the person or to the agent of the person who
9 18 submitted the information to the workers' compensation
9 19 commissioner.

9 20 e. To an agent, representative, attorney, investigator,
9 21 consultant, or adjuster of an employer, or insurance carrier
9 22 or third-party administrator of workers' compensation
9 23 benefits, who is involved in administering a claim for such
9 24 benefits related to the injury or death of the employee whose
9 25 information is filed with the workers' compensation
9 26 commissioner.

9 27 f. To all parties to a contested case proceeding before
9 28 the workers' compensation commissioner in which the employee
9 29 or a dependent of the employee, whose information is filed
9 30 with the workers' compensation commissioner, is a party.

9 31 g. In compliance with a subpoena.

9 32 h. To an agent, representative, attorney, investigator,
9 33 consultant, or adjuster of the employee, employer, or
9 34 insurance carrier or third-party administrator of insurance
9 35 benefits, who is involved in administering a claim for

10 1 insurance benefits related to the injury or death of the
10 2 employee whose information is filed with the workers'
10 3 compensation commissioner.

10 4 i. To another governmental agency that is charged with the
10 5 duty of enforcing liens or rights of subrogation or indemnity.
10 6 3. This section does not create a cause of action for a
10 7 violation of its provisions against the workers' compensation
10 8 commissioner or against the state or any governmental
10 9 subdivision of the state.

10 10 Sec. 15. Section 87.11, unnumbered paragraph 1, Code 2005,
10 11 is amended to read as follows:

10 12 When an employer coming under this chapter furnishes
10 13 satisfactory proofs to the insurance commissioner of such
10 14 employer's solvency and financial ability to pay the
10 15 compensation and benefits as by law provided and to make such
10 16 payments to the parties when entitled thereto, or when such
10 17 employer deposits with the insurance commissioner security
10 18 satisfactory to the insurance commissioner ~~and the workers'~~
~~10 19 compensation commissioner~~ as guaranty for the payment of such
10 20 compensation, such employer shall be relieved of the
10 21 provisions of this chapter requiring insurance; but such
10 22 employer shall, from time to time, furnish such additional
10 23 proof of solvency and financial ability to pay as may be
10 24 required by such insurance commissioner ~~or workers'~~
~~10 25 compensation commissioner~~. Such security shall be held in
10 26 trust for the sole purpose of paying compensation and benefits
10 27 and is not subject to attachment, levy, execution,
10 28 garnishment, liens, or any other form of encumbrance.

10 29 However, the insurance commissioner shall be reimbursed from
10 30 the security for all costs and fees incurred by the insurance
10 31 commissioner in resolving disputes involving the security. A
10 32 political subdivision, including a city, county, community
10 33 college, or school corporation, that is self-insured for
10 34 workers' compensation is not required to submit a plan or
10 35 program to the insurance commissioner for review and approval.

11 1 Sec. 16. Section 87.14A, Code 2005, is amended to read as
11 2 follows:

11 3 87.14A INSURANCE ~~OR BOND~~ REQUIRED.

11 4 An employer subject to this chapter and chapters 85, 85A,
11 5 85B, and 86 shall not engage in business without first
11 6 obtaining insurance covering compensation benefits or
11 7 obtaining relief from insurance as provided in this chapter ~~or~~
~~11 8 furnishing a bond pursuant to section 87.16~~. A person who
11 9 willfully and knowingly violates this section is guilty of a
11 10 class "D" felony.

11 11 Sec. 17. Section 87.19, unnumbered paragraph 1, Code 2005,
11 12 is amended to read as follows:

11 13 Upon the receipt of information by the workers'
11 14 compensation commissioner of any employer failing to comply
11 15 with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner
11 16 shall at once notify such employer by certified mail that
11 17 unless such employer comply with the requirements of law,
11 18 legal proceedings will be instituted to enforce such
11 19 compliance.

11 20 Sec. 18. Section 87.20, Code 2005, is amended to read as
11 21 follows:

11 22 87.20 REVOCATION OF RELEASE FROM INSURANCE.

~~11 23 The insurance commissioner with the concurrence of the~~
~~11 24 workers' compensation commissioner~~ may, at any time, upon
11 25 reasonable notice to such employer and upon hearing, revoke
11 26 for cause any order theretofore made relieving any employer
11 27 from carrying insurance as provided by this chapter.

11 28 Sec. 19. Section 91A.3, subsection 3, Code 2005, is
11 29 amended to read as follows:

11 30 3. The wages paid under subsection 1 shall be sent to the
11 31 employee by mail or be paid at the employee's normal place of
11 32 employment during normal employment hours or at a place and
11 33 hour mutually agreed upon by the employer and employee, or the
11 34 employee may elect to have the wages sent for direct deposit,
11 35 on or by the regular payday of the employee, into a financial
12 1 institution designated by the employee. An employer shall not
12 2 require a current employee to participate in direct deposit.
12 3 The employer may require, as a condition of hire, a new
12 4 employee to sign up for direct deposit of the employee's wages
12 5 in a financial institution of the employee's choice unless any
12 6 of the following conditions exist:

12 7 a. The costs to the employee of establishing and
12 8 maintaining an account for purposes of the direct deposit
12 9 would effectively reduce the employee's wages to a level below
12 10 the minimum wage provided under section 91D.1.

12 11 b. The employee would incur fees charged to the employee's
12 12 account as a result of the direct deposit.

12 13 c. The provisions of a collective bargaining agreement
12 14 mutually agreed upon by the employer and the employee

12 15 organization prohibit the employer from requiring an employee
12 16 to sign up for direct deposit as a condition of hire.

12 17 Sec. 20. Section 91A.6, subsection 3, Code 2005, is
12 18 amended to read as follows:

12 19 3. Within ten working days of a request by an employee, an
12 20 employer shall furnish to the employee a written, itemized
12 21 statement or access to a written, itemized statement as
12 22 provided in subsection 4, listing the earnings and deductions
12 23 made from the wages for each pay period in which the
12 24 deductions were made together with an explanation of how the
12 25 wages and deductions were computed. ~~An employer need honor~~
~~12 26 only one such request in any calendar year unless the rate of~~
~~12 27 earnings, hours or deductions are changed during the calendar~~
~~12 28 year. Each change shall entitle an employee to a further~~
~~12 29 request for an itemized statement.~~

12 30 Sec. 21. Section 91A.6, Code 2005, is amended by adding
12 31 the following new subsection:

12 32 NEW SUBSECTION. 4. On each regular payday, the employer
12 33 shall send to each employee by mail or shall provide at the
12 34 employee's normal place of employment during normal employment
12 35 hours a statement showing the hours the employee worked, the
13 1 wages earned by the employee, and deductions made for the
13 2 employee. An employer who provides each employee access to
13 3 view an electronic statement of the employee's earnings and
13 4 provides the employee free and unrestricted access to a
13 5 printer to print the employee's statement of earnings, if the
13 6 employee chooses, is in compliance with this subsection.

13 7 Sec. 22. Sections 87.16 and 87.17, Code 2005, are
13 8 repealed.

13 9 Sec. 23. EFFECTIVE DATE. This division of this Act takes
13 10 effect July 1, 2005.

13 11 DIVISION V

13 12 Sec. 24. EFFECTIVE DATE. Unless specifically provided
13 13 otherwise, this Act, being deemed of immediate importance,
13 14 takes effect upon enactment.

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13 17 _____
13 18 JOHN P. KIBBIE
13 19 President of the Senate

13 20
13 21 _____
13 22 CHRISTOPHER C. RANTS
13 23 Speaker of the House
13 24
13 25

13 26 I hereby certify that this bill originated in the Senate and
13 27 is known as Senate File 342, Eighty-first General Assembly.

13 28
13 29
13 30 _____
13 31 MICHAEL E. MARSHALL
13 32 Secretary of the Senate

13 33 Approved _____, 2005

13 34
13 35
14 1 _____
14 2 THOMAS J. VILSACK
14 3 Governor